

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

VENUSTIANO CARDOSO, §
#57189-177, §
Movant, §
v. § CIVIL NO. 3:22-CV-765-K
UNITED STATES OF AMERICA, § (CRIMINAL NO. 3:18-CR-232-K-4)
Respondent. §

ORDER DENYING CERTIFICATE OF APPEALABILITY

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing § 2255 Proceedings for the United States District Courts, and 28 U.S.C. § 2253(c), the Court **DENIES** a Certificate of Appealability. Based on the Court's Memorandum Opinion and Order, the Court finds that the movant has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find it "debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Rule 11 of the Rules Governing Section 2255 Proceedings for the United States District Courts, as amended effective on December 1, 2019, reads as follows:

(a) **Certificate of Appealability.** The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. Before entering the final order, the court may direct the parties to submit arguments on whether a certificate should issue. If the court issues a certificate, the court must state the specific issue or

issues that satisfy the showing required by 28 U.S.C. § 2253 (c)(2). If the court denies a certificate, a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22. A motion to reconsider a denial does not extend the time to appeal.

(b) **Time to Appeal.** Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order entered under these rules. A timely notice of appeal must be filed even if the district court issues a certificate of appealability. These rules do not extend the time to appeal the original judgment of conviction.

In the event the movant will file a notice of appeal, the Court notes that he will need to pay the applicable filing fee of \$505.00 or move for leave to proceed *in forma pauperis* on appeal.

SO ORDERED.

Signed April 13th, 2022.



ED KINKEADE
UNITED STATES DISTRICT JUDGE